

## Scrutiny and Overview Committee Procedure Rules

### 1. What will be the Arrangements for Scrutiny of Executive Decisions and Council Services?

The Council will have a Scrutiny and Overview Committee as required by Article 6 and will appoint members to it who shall not be members of the Executive. The committee may appoint sub-committees or task and finish panels as it considers appropriate, as referred to in its Terms of Reference.

The Terms of Reference for the committees set up under the Council's scrutiny and overview arrangements are set out in Article 6 above.

### 2. Members of Scrutiny and Overview Committee

No member may be involved in scrutinising a decision or policy made by a body of which he / she was a member at the time the decision was made, but he / she may attend to give evidence.

### 3. Co-Optees

The committee may not co-opt persons who are not councillors but may invite representatives from any body or organisation or any individual to attend meetings to give their views on any matter being considered.

**This restriction does not extend to task and finish panels established by either committee.**

### 4. Meetings of the Scrutiny and Overview Committee

There shall be at least five ordinary meetings of the committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A committee meeting may be called by the Chairman of the Committee, by half the members or by the proper officer if he / she considers it necessary or appropriate. All members of the Council may attend meetings of the committee and, by agreement with the Chairman, may address the meeting.

The Chief Executive is authorised to cancel a meeting before the agenda has been published, following consultation with the Chairman. Where, in exceptional circumstances, it is necessary to cancel a meeting after the agenda has been published, the Chief Executive shall be authorised to do so following consultation with the Chairman. The notice advising of the cancellation shall specify the exceptional circumstances in which the decision was taken. Outstanding business shall be held over to the next scheduled meeting or considered at a reconvened meeting on a date to be arranged which satisfies the notice requirements set out in the Local Government Act 1972 and Access to Information Rule 4.

### 5. Quorum

The quorum for the committee shall be at least one half of its membership.

### 6. Chairman and Vice-Chairman

The Chairman and Vice-Chairman of the committee and any sub-committees appointed by it, will be drawn from among the councillors sitting on the committee / sub-committee, and subject to this requirement the committee / sub-committee may appoint such a person as it considers appropriate as Chairman or Vice-Chairman. The Chairman or other person presiding, in the event of a voting tie, shall have a second or casting vote. Task and finish panels and other groups established by the committee from time to time may elect a Chairman from amongst their membership.

## 7. Work Programmes

- (a) The committee will be responsible for setting its work programmes and, in doing so, it shall use the following process:
- initial topic selection, including input from officers, Cabinet and external stakeholders;
  - establishment by the committee of priority work areas based on key factors such as importance to residents, ability of the committee to influence, Council / local performance in the work area concerned;
  - consultation with Executive Management Team;
  - consultation with Leader and Cabinet; and
  - final adoption by the committee.
- (b) Any member of the Council may give written notice to the proper officer that he or she wishes an item to be included on the agenda of the committee. If the proper officer receives such a notification, then he / she will consult the Chairman of the committee who will decide, having regard to the agreed Work Programme and other current priorities, whether to include the item on the first available or any agenda of the committee for consideration by the committee.
- (c) The committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Executive to review particular areas of Council activity. Where it does so, the committee shall report its findings and any recommendations back to the Executive and / or Council. The Council and / or the Executive shall consider the report of the committee as soon as reasonably practicable after receiving it.
- (d) The committee may decide to allocate roles to individual members of the committee to oversee specific functions of the Executive and ensure that all functions of the Executive and all services provided by the Council are open to scrutiny. The committee may form any group or sub-group of non-executive members to carry out specific tasks or projects.
- (e) Projects for formal review will be carried out by the committee in accordance with its agreed Work Programme and will normally not exceed five each year. The agreed Work Programme will be published on a roll-forward basis as frequently as the committee shall decide.

## 8. Making Sure that Reports from the Scrutiny and Overview Committee are Considered by the Executive (Cabinet)

- (a) The agenda for Executive meetings shall include an item entitled 'Issues arising from the Scrutiny and Overview Committee'. Any reports of the committee referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the committee completing its report / recommendations.
- (b) Once the committee has completed its deliberations on any matter it will forward a copy of its final report to the proper officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the proper officer refers the matter to Council, he / she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have three weeks in which to respond to the report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the committee on a matter which would impact on the budget and policy

framework, it shall also consider the response of the Executive to the committee proposals.

- (c) Where the committee agrees to submit a report for consideration by the Executive in relation to a matter where the Leader or Council has delegated decision-making power to another individual member of the Executive, then the committee will submit a copy of its report to him / her for consideration. At the time of doing so, the committee shall serve a copy on the proper officer. The member with delegated decision-making power must consider the report and respond in writing to the committee within three weeks of receiving it. A copy of his / her written response to it shall be sent to the proper officer and the Leader. The member will also attend a future meeting of the committee to present his or her response.

## 9. Rights of Committee Members to Documents

- (a) In addition to their rights as councillors, members of the Scrutiny and Overview Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the committee as appropriate depending on the particular matter under consideration.

## 10. Members and Officers Giving Account at the Scrutiny and Overview Committee

- (a) The Scrutiny and Overview Committee or any of its sub-committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, it may require any member of the Executive, the Head of Paid Service, Executive Director, any Corporate Manager and / or any Head of Service to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and / or
  - (iii) their performance;and it is the duty of those persons to attend if so required.
- (b) Where any member or officer is required to attend a meeting of the committee under this provision, the Chairman of the committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five clear working days' notice of the meeting at which he / she is required to attend. The notice will state the nature of the item on which he / she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation. **Wherever possible, invitations should be made and accepted without recourse to the formal summons outlined here, which should be used only in the event of disputes which cannot be resolved by other means.**
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

## 11. Attendance by Others

The committee may invite people other than those people referred to in paragraph 10 above to address it, discuss issues of local concern and / or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. The public has a right to speak at

open meetings of the committee as set out in the Access to Information Rules and the Guidance in Part 5: Codes and Protocols.

## 12. Call-In by the Scrutiny and Overview Committee

- 12.1 Call-in should be used only in exceptional circumstances and can relate only to executive decisions made or to be made by the executive decision takers referred to in the Budget and Policy Framework Rules, Rule 7<sup>1</sup>. There are only two grounds on which call-in of any decision can be requested:
- 12.1.1 It is or would be contrary to the policy framework or contrary or not wholly in accordance with the Council's budget – a "Departure Decision" as defined in Budget and Policy Framework Rule 7; or
- 12.1.2 It is not in accordance with the principles set out in Article 13 (Decision-making) ("Outside Article 13 decision")
- 12.2 The Chairman of the Scrutiny and Overview Committee has discretion, unless otherwise advised by the Monitoring Officer, to refuse a call-in request if s/he considers that the reasons given do not satisfy the grounds above; or may limit the issues to be considered to those satisfying the grounds.
- Procedure**
- 12.3 When a decision is made by any of the executive decision takers referred to in Budget and Policy Framework Rule 7, the decision will be published in accordance with Rule 18 of the Access to Information Procedure Rules.
- 12.4 At any time until the expiry of the call-in period (five working days after publication), or before the decision is made, the proper officer shall call-in an executive decision for scrutiny by the Scrutiny and Overview Committee if so requested by the Chairman of the committee, or any five councillors, whether or not they are members of that committee, on either of the grounds in 12.1 above, and shall notify the executive decision taker straightaway of the call-in.
- 12.5 No further action on the decision or any implementation shall take place other than in accordance with these Rules.
- 12.6 Before invoking call-in of any **departure decision** the Chairman of the Scrutiny and Overview Committee or the five invoking councillors must seek advice from the Monitoring Officer and / or the Chief Finance Officer as appropriate on whether the decision is contrary to the policy framework or the budget. The invoker shall notify the proper officer accordingly and within the call-in period.
- 12.7 In the case of a **departure decision**, the Monitoring Officer and / or Chief Finance Officer (as appropriate) or an experienced senior officer authorised by them will report as soon as possible to the executive decision-taker(s), proper officer, the invoker and the Chairman of the Scrutiny and Overview Committee on whether the decision is or would be a departure from policy or budget. If the report concludes that the decision is not a departure, the Chairman of the Scrutiny and Overview Committee has discretion to refuse the call-in request or put the matter before the committee for consideration.
- 12.8 In all cases, unless the decision is revoked or withdrawn by the executive decision taker(s) or is not to be proceeded with, or has been refused by the Chairman of the Scrutiny and Overview Committee, the proper officer shall, within five working days of the request to call-in, call a meeting of the Scrutiny and Overview Committee on such date as the proper

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1 The Cabinet; any member of the Cabinet; any Committee or group of the Cabinet; any officer (key decision only); an area committee; or a committee under joint arrangements.

officer may determine, where possible after consultation with the Chairman of the committee, to consider the decision.

- 12.9 If, having considered the decision, the Scrutiny and Overview Committee is concerned about it or agrees that the decision is a departure, it may take one of the following courses:
- 12.9.1 refer the decision back to the executive decision taker for re-consideration, setting out in writing the nature of its concerns. If referred back, the executive decision taker shall then re-consider within five working days, amending the decision or not, before adopting a final decision. If the decision had been made before call-in, it may be implemented immediately;
  - 12.9.2 refer the matter to Council, unless the executive decision-taker has indicated a preparedness to reconsider the matter; or
  - 12.9.3 not refer the matter back or to Council, in which case the decision if made may be implemented immediately following the Scrutiny and Overview Committee meeting

#### **Referral to Council**

- 12.10 In the case of decisions referred to Council by the Scrutiny and Overview Committee under Rule 12.9.2 the following provisions shall apply.
- 12.11 The Council shall meet within twenty-one days of the reference by the Scrutiny and Overview Committee. This period may be extended by agreement of the Chairman of the committee. If the matter is urgent an extraordinary meeting of Council may be called if the Scrutiny and Overview Committee so requests.
- 12.11.1 At its meeting the Council shall receive a report of the decision made or to be made, any report and advice of the Monitoring Officer and / or the Chief Finance Officer, any report of the Executive, the request from and the concerns of the Scrutiny and Overview Committee and any other relevant material.
- 12.12 The Council may, in the case of Departure Decisions,
- 12.12.1 endorse the decision or proposal of the executive decision taker as falling within the existing budget and policy framework. The decision can be implemented immediately.
  - 12.12.2 amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. The decision can then be implemented.
  - 12.12.3 where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, it will require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer / Chief Finance Officer.
- 12.13 The Council may, in the case of any Outside Article 13 decision,
- 12.13.1 not object, in which case the decision if made may be implemented immediately after the Council meeting.
  - 12.13.2 refer the decision back to the executive decision taker(s) together with the Council's views on the decision. The executive decision taker(s) shall then re-consider within five working days, amending the decision or not, before adopting a final decision, which may be implemented immediately.

- 12.14 If the Council fails to meet by the end of twenty-one days from reference by the Scrutiny and Overview Committee or other date agreed between the Chairman of the committee and the Chairman of Council, the decision may be implemented immediately.

**Liability for Further Call-in**

- 12.15 Any decision referred back by the Scrutiny and Overview Committee or by Council for reconsideration by Cabinet or the decision-taker(s) shall not be subject to further call-in, whether or not it is altered or adjusted to accommodate some or all of the concerns of the invoker.
- 12.16 Any decision proposed but not yet made, and considered by the Scrutiny and Overview Committee under the call-in provisions, shall be subject to the record, publication and call-in rules under Rule 18 Access to Information Procedure Rules if it is to proceed.
- 12.17 Any decision not formally referred back but taken back by the executive decision-taker for reconsideration shall be subject to further call-in procedure in accordance with Rule 18 Access to Information Rules, but only to the extent that the decision on reconsideration does not accommodate the concerns of the original invoker.

**Call-in and urgency**

- 12.18 The call-in procedure set out above shall not apply where the decision being taken by the executive decision taker is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.
- 12.19 The Chairman of the Council and Chairman of Scrutiny and Overview Committee must previously agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his / her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 12.20 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

**13. Party Whip**

When considering the review of any decision in respect of which a member of the committee is subject to a party whip, the member must declare the existence of the whip, and the nature of it, before the commencement of the committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

**14. Procedure at Scrutiny and Overview Committee Meetings**

- (a) The Scrutiny and Overview Committee and any of its sub-committees shall consider the following business:
- (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - (iv) responses of the Executive to reports of the Scrutiny and Overview Committee;
  - (v) any recommendations or reports from the committee's panels;
  - (vi) reports from Monitors who have attended Cabinet Portfolio Holder's meetings; and

(vii) the business otherwise set out on the agenda for the meeting.

- (b) Following any investigation or review, the committee / sub-committee shall prepare a report, for submission to the Executive and / or Council as appropriate and shall make its report and findings public.
- (c) Where the Scrutiny and Overview Committee conducts investigations, the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
- (i) That the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) That those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

The Chairman may alter the structure of meetings at his / her discretion in order to ensure that the above principles are followed.

15. **Operating Guidelines for Task and Finish Groups set up by the Scrutiny and Overview Committee**

<b>Formal Agenda</b>	Optional
<b>Formal, detailed minutes / notes</b>	No
<b>Lead Officer(s)</b>	Scrutiny Development Officer (SDO), lead officer(s) from the relevant service area
<b>Action notes</b>	To be compiled by the SDO and lead officer and reviewed from meeting to meeting. Normally to be made available to the public on request after publication of the final report.
<b>External / public involvement</b>	Meetings will not be public; however, stakeholders will be invited to attend and to contribute to the panels' work programmes, including co-option to the panel, as appropriate.
<b>Politically proportionate</b>	No
<b>Composition</b>	Appointed by the Scrutiny and Overview Committee from non-executive members with the relevant experience / interest.  The Cabinet portfolio holder may be invited to contribute in an advisory capacity to reviews overseen by the Scrutiny and Overview Committee.
<b>Size</b>	This will vary according to the matter under discussion; however, panels should not normally comprise more than five members of the Council.
<b>Terms of Reference</b>	Terms of Reference must be agreed by the Scrutiny and Overview Committee at the point of establishment and must include: <ul style="list-style-type: none"> <li>• The specific issue to be considered;</li> <li>• A timescale and deadline;</li> <li>• Principal aims and objectives.</li> </ul>